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SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 4th MEETING

Held at Headquarters, New York,
on Wednesday, 16 April 1986, at 3 p.m.

Chairman: Mr. RUIZ-CABAÑAS (Mexico)

CONTENTS

Consideration of reports submitted in accordance with Council resolution 1988 (LX) by States parties to the Covenant concerning rights covered by articles 10 to 12 (continued)

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The meeting was called to order at 11 a.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 10 TO 12 (continued)

Second periodic report of Austria (E/1986/4/Add.8 and Corr.1)

1. At the invitation of the Chairman, Mr. Cermak (Austria) took a place at the table.

2. Mr. CERMAK (Austria), introducing his country's report concerning rights covered by articles 10 to 12 of the Covenant, said that most of the basic rights and freedoms guaranteed by the Austrian Constitution had originally been listed in the Basic Law passed in 1867. In 1958, Austria had become a signatory to the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, which also formed an integral part of the Constitution. In addition, in 1978 Austria had ratified both Human Rights Covenants.

3. Austria had approximately 7.5 million inhabitants, 18.6 per cent of which were below 15 years old and 19.8 per cent of which were 60 years or older. Life expectancy at birth for men was 70, for women 77 years. In 1984, approximately 270,000 foreigners were living in Austria, while 7,200 refugees were received and 4,300 refugees left Austria in the same year in order to settle in third countries. In 1984 also, out of a total of 2.8 million employed Austrians, 1.14 million (approximately 40 per cent) were female.

4. Austria's initial report on rights covered by articles 10 to 12 of the Covenant had been discussed by the Working Group in 1981; the basic laws and principles of Austria's policy in the fields under discussion had largely remained unchanged. The report in document E/1986/4/Add.8 therefore only provided an update of the situation.

5. With regard to article 10 of the Covenant, it was of interest to note that the number of families had been increasing. In 1971 there were 1.93 million families in Austria, in 1981 1.99 million and by 1984, 2.04 million. Families with one child or more had increased by approximately 76,000 since 1971. That increase could be primarily explained by the tendency for children to remain longer in the households of their parents. Lengthening of the educational process and a higher average age at marriage also contributed to the development. There was also an increase in the number of single mothers from 42,000 in 1971 to 52,000 in 1984. Contributing factors included willingness to give birth while unmarried (1971: 14,100; 1984: 19,200) and a higher divorce rate (1974: 10,600; 1984: 14,900).

6. Reform of Austrian family law and amendments to existing laws had laid the groundwork for the equality of men and women within the family. It was, however, easier to modify laws than to bring about changes in traditional concepts.

(Mr. Cermak, Austria)

7. Women were entitled to one year of maternity leave after the birth of their child. During that period their jobs had to be kept open for them. The fact that that right was exclusively reserved for mothers had increasingly been criticized on the grounds that it perpetuated the traditional male and female roles within the family. Legislation was under consideration which would allow the mother or father to decide who should actually take the leave.

8. The number of kindergartens and the number of four- to six-year-olds attending them had increased significantly. In 1969/70 there were less than 2,000 kindergartens in Austria; by 1983/84 there were 3,580. During that period, the number of children attending kindergarten had risen from 114,000 to 161,000.

9. In connection with the International Year of the Disabled, several recommendations concerning early discovery of symptoms of disability and promotion and integration of disabled children had been elaborated in co-operation with leading experts in the field. They included: the establishment of facilities for genetic counselling; pre-natal care for high-risk pregnancies through a regular visiting service; the establishment of centres for early treatment and continuing care of disabled children; and the provision of education and training for parents of disabled children.

10. In addition, educational facilities for seriously disabled young people had been constructed and additional apprenticeships for young disabled persons had been provided. In 1984, 210 million Austrian schillings had been spent to provide better employment possibilities for the disabled.

11. Youth unemployment did exist in Austria and, while the unemployment rate of young people from 15 to 18 years old remained relatively low (1984: 2.5 per cent), there was concern in Austria about young people from 19 to 24. Their unemployment rate for 1984 was 5.6 per cent as compared with the general unemployment rate of 4.5 per cent. High priority had been given to measures to promote youth employment and 700 million Austrian schillings had been spent during 1984/85 to promote the employment of 60,000 young persons. Special help was given to any person up to 25 years of age who was unemployed for a period exceeding three months.

12. With regard to article 11 concerning the right to an adequate standard of living, the per capita gross national product of Austria in 1984 was $US 8,533, while the Austrian economy grew by 2 per cent and the rate of inflation was 5.6 per cent. In 1985, the rate of inflation had fallen to 3.2 per cent. Social stability was illustrated by the number of strikes. In 1983 there had been four strikes in Austria and in 1984, two strikes, involving 268 employees. The amount of working time lost by strikes amounted to 5.7 seconds per worker in 1984.

13. With regard to the right to housing, measures had been taken for the protection of tenants, such as rent control and legal guarantees (para. 55 of the report). Where the lessor required rented premises for his own use or for use by his relatives, where the building was to be demolished or rebuilt, or where the tenant of a substandard dwelling refused to have his dwelling improved by the lessor, a substitute dwelling for the tenant had to be provided. The tenant had to be offered two such dwellings and could accept an indemnity instead.

(Mr. Cermak, Austria)

14. With regard to article 12, 98 per cent of the Austrian population was covered by health insurance. The cost of maintaining high standards of health care had increased considerably: from 1970 to 1982 doctor's fees had more than tripled, and insurance coverage for dental care had quadrupled. A check-up programme for mothers and infants, linked to an increase in subsidies, had been very successful. Ninety-six per cent of women actually had all the examinations scheduled, and, as a result, maternal mortality had been drastically decreased and infant mortality had been reduced from 2.35 per cent in 1975 to 1.15 per cent in 1984.

15. Mrs. JIMENEZ BUTRAGUEÑO (Spain) said that the statistics provided in the introduction to the report were very useful. Paragraph 5 referred to family subsidies going to the head of the family. Was that head always the father or could it sometimes be the mother?

16. Paragraph 7 concerned travel allowances and book allowances. Were those allowances provided to all families, or only to those in need? If so, what was the minimum salary stipulated for the recipients of those allowances?

17. Protection of the family in case of hardship as outlined in paragraph 8 was very important. What was the criterion for family selection?

18. Paragraph 11 mentioned tax allowances for families with only one breadwinner. If both parents worked, were tax returns filled out jointly, or separately?

19. Further clarification was required concerning maternity leave. Was there any pre-natal leave and if so, how long was it? Was a woman's salary paid in full during such leave?

20. Paragraph 21 indicated that special benefit under unemployment insurance was higher for single mothers than for married mothers. Would a widowed mother be considered single or married? Were men eligible for a special benefit?

21. Fuller information was needed on widows' pensions, which were mentioned briefly in paragraph 22.

22. A tendency for children to stay longer with their families had been mentioned, and she assumed that was not because of youth unemployment, since that phenomenon occurred in many countries.

23. Finally, she requested clarification of the statement that a lessor had to provide a choice of two dwellings to a tenant.

24. Mr. MRACHKOV (Bulgaria) said that the introduction provided by the representative of Austria had been well-balanced, covering current national legislation and its implementation, as well as the degree of implementation of articles of the Covenant. The Austrian Government was clearly making an effort to honour its international obligations. The additional information provided in the introductory statement, in particular the statistical data, complemented the report very well.

(Mr. Mrachkov, Bulgaria)

25. He wished to know whether Austrian legislation provided for divorce by mutual consent, whether a list had been established of legally accepted causes for divorce, and, if so, whether that list was restrictive or merely indicative. It would also be useful to have statistics on marriages and divorces, showing general trends. It would be helpful to know the relationship between the basic amount of the family subsidy per month for each child and the minimum wage, in order to have an idea of the buying power of the subsidy.

26. With regard to the Protection of Mothers Act, which prohibited the employment of expectant mothers and mothers after the birth of a child, he asked whether the representative felt that such a prohibition might aggravate the situation of pregnant women by infringing upon their right to work. It would also be helpful to know the legal consequences of dismissal of mothers, and whether they had the right to be rehired. He asked whether unpaid maternity leave was ever subject to the employer's discretion.

27. With regard to the protection of children, he expressed surprise that, according to paragraph 25, anyone could ask the court to issue the necessary orders to protect minors against conduct by their parents endangering their welfare, and he wished to have more information about the procedures involved. It would also be helpful to have more details on the membership of the juvenile courts, their attributes and the number of cases brought before them annually.

28. As to measures taken for the protection of tenants, he asked what criteria were used to judge how well housing needs were being met. He also wished to have information on whether persons who were not insured had access to free health care and, lastly, the breakdown of youth unemployment figures.

29. Mr. TEXIER (France) congratulated the representative of Austria on his Government's well-balanced report. He asked whether the family subsidy referred to in paragraph 5 was also provided to foreign residents of Austria. It would be interesting to learn more about non-traditional families and whether, for example, they enjoyed the same tax advantages as traditional families. He asked whether any provision existed for paternity as well as maternity leave, and he would welcome statistics on the imprisonment of minors.

30. With regard to article 11, he asked whether those who violated the regulations concerning food quality control were subject to fines or imprisonment, and whether the posting of food prices was obligatory. He would welcome additional information on the regulation of public housing and rents, and on the termination of lease contracts referred to in paragraph 56. It would also be useful to learn whether the Government had any specific plans with regard to the housing situation in Austria as depicted in paragraph 57.

31. Referring to the implementation of article 12, he asked what the penalties were for committing an act that could lead to the spreading of a contagious disease among the population (para. 70). He wondered whether there had been any specific examples of such acts. He congratulated the Government on its efforts to ensure

(Mr. Texier, France)

environmental protection, in particular with regard to reducing harmful emissions, and he asked how it had managed to implement the replacement of leaded regular gasoline by unleaded gasoline. He would appreciate additional information on ecology groups in Austria, including an assessment of their political role.

32. Mrs. KIMATA (Japan) said that the report was generally satisfactory, and that she was impressed by the Government's efforts to guarantee the rights of Austrian citizens. She asked, with respect to the family subsidies referred to in paragraph 5, whether any couple, irrespective of the employment status of the spouses, could apply for such subsidies. She noted that children who were of age but who were under 27 were eligible to receive the subsidy (para. 5 (b)) and wondered why that particular age limit had been set. It would also be useful to have more details on assistance to families in cases of hardship (para. 8). Lastly, it should be clarified whether any young couple could apply for the low-priced housing or financial help given by the Government, as referred to in paragraph 10, and what the amount of such subsidies was.

33. Mr. POERSCHKE (German Democratic Republic) said that the report reflected the Government's commendable efforts to implement articles 10 to 12 of the Covenant. He asked whether any of the provisions of the Covenant had the status of constitutional law in Austria, and whether there were any other rules and principles of international law that had become an integral part of Austrian law. He commended the Government for the remarkable results it had achieved in the implementation of article 11. He would appreciate more detailed information on the standard of living of the population, including statistics on consumer prices and workers' incomes. He asked what Austria's position was with regard to the relationship between youth unemployment and the rights covered by articles 10 to 12 of the Covenant, especially article 11. Lastly, it would be interesting to learn more about supportive measures for low-income applicants for "substitution loans" for owner-occupied houses or rented flats (para. 49).

34. Mr. BENDIX (Denmark) said that the report and introductory remarks had given a good overall picture of the situation in Austria, and he expressed particular appreciation for the information in the introductory remarks with regard to the distribution of the population among certain groups, such as refugees and foreigners. In his view, the Sessional Working Group should take a more balanced approach in the number of questions which it asked about the reports of States parties, in view of the difficulty of preparing answers to so many detailed questions in one day.

35. With regard to the imprisonment of young people, he wished to know whether there were special prisons for them or whether they were confined with other types of offenders.

36. With respect to the information in paragraph 31, he wished to know more about marriages in which the parents were of different nationalities or in which there were adopted children, because there often were problems in that regard.

(Mr. Bendix, Denmark)

37. As to the question of the right to housing, he wondered whether there was governmental control with respect to the need for the lessor to give the tenant adequate notice to vacate the rented premises.

38. He also wished to know whether there had been problems concerning the right to adequate food and beverages and whether there were any measures whereby companies that deceived the consumers could be prosecuted.

39. Finally, he wondered whether any steps had been taken in Austria to counter the disease known as acquired immune deficiency syndrome (AIDS).

40. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that it should be borne in mind that the duties of the experts on the Sessional Working Group were multifaceted and that the Group was not an investigating organ. It was a body established for international co-operation among States with different systems in order to strengthen international adherence to the provisions of the Covenant. In other words, its purpose was to promote dialogue between the future Committee on Economic, Social and Cultural Rights and the States parties to the Covenant.

41. The statements made by reporting States showed that broad measures had been taken to protect human rights and, in that connection, he had a positive view of the report of Austria. More than 40 years before, Austria had been one of the countries that had suffered immensely during the Second World War; however, it had developed rapidly and had done much to implement the provisions of the Covenant. He wondered, in that connection, whether Austria's role of neutrality and non-militarization had had an impact on its efforts to implement the Covenant. That was particularly important in view of the fact that 1986 was the International Year of Peace. He also wished to know whether the Government of Austria felt that freeing mankind from the nuclear arms race would have a significant impact on the protection of human rights.

42. Austria's economy was a mixed one, based mainly on the capitalist system. In other words, it was different from the system in the Soviet Union and he therefore wished to know more about it, since Austria had been able to ratify the Covenant and implement most of its provisions. For example, he wondered whether the State played an active role in the implementation of the Covenant.

43. With respect to youth unemployment referred to by the representative of Austria, he wished to know whether the current world economic crisis was in any way responsible for that situation and what measures had been taken to counter its effects, especially in situations where entire families were unemployed. There was also the European problem of migrant workers and he wished to know what were the rights of migrant workers in Austria.

44. He also wished to know more about the status of women in families. For example, who was regarded as the head of the household? In addition, he wondered whether specific measures had been taken in the education of children and whether that education was geared towards ensuring peace and mutual understanding among peoples.

(Mr. Yakovlev, USSR)

45. Austria had adopted several measures to ensure adequate housing for all and he wished to know how those measures were being implemented. Did the State play an active role or was it left mostly to private organizations? He also wished to know whether there were any special measures to assist low-income and unemployed persons who were unable to pay rent, because in some developed countries, such as the United States, there were many homeless persons.

46. Mr. LY (Senegal) said that Austria's devotion to the protection of human rights was well-known and the report bore that out. He looked forward to receiving answers to certain questions, especially those regarding migrant workers and whether they had the right to family visits.

47. With respect to article 10, he noted that paragraph 24 of the report seemed to suggest that the Federal Government had reduced its role in the payment of advances on the statutory maintenance of minors. He wished to have more information about that question and also about the right to housing and, in particular, governmental controls to prevent wrongful rent increases.

48. Article 11 stressed the importance of international co-operation in solving world food problems and he wished to know what steps had been taken by Austria in that regard.

49. Mr. BEN HAMIDA (Tunisia) noted that paragraph 1 of the report stated that article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms had the status of a constitutional law in Austria. He wished to know whether the Covenant had the same status and what would be the situation if there was a contradiction between the Convention and the Covenant in a court of law. In other words, would the judge have the right to decide which should apply and which should be paramount?

50. The CHAIRMAN, speaking as a member of the Working Group, said that the report of Austria was impressive and gave a good picture of how the rights under articles 10 to 12 of the Covenant were being implemented in that country. He would appreciate more information on the foreign workers in Austria, particularly the sectors of the economy in which they were employed and their average income compared with that of the rest of the population. It would also be interesting to know whether such workers brought their families to live with them in Austria. Lastly, he requested information on the illicit use of narcotic drugs and asked whether there was a problem in that regard and, if so, what was being done to eliminate it.

51. Mr. Cermak (Austria) withdrew.

Initial report of Zambia (E/1986/3/Add.2)

52. At the invitation of the Chairman, Mr. Lichilana (Zambia) took a place at the table.

53. Mr. LICHILANA (Zambia), introducing his country's initial report concerning rights covered by articles 10-12 of the Covenant, said that, although over 98 per cent of his country's population was of African descent, there had always been differences in culture and tradition which were not easy to reconcile. It had been necessary therefore to introduce legislation governing social contracts, including marriage, but at the same time such legislation was not binding on individuals. Zambians could marry in accordance with the national statute and have their marriages registered or could have traditional weddings, which were not binding legally. In either case, however, marriages were entered into on the basis of mutual consent.

54. Since Zambia was a developing country, his Government did not have the resources to provide modern pre-natal and post-natal medical care to all mothers, particularly to those in remote rural areas. Women employed in the public and private sectors, however, were legally entitled to paid maternity leave in addition to annual leave. The Zambia National Provident Fund provided token financial assistance to employed mothers.

55. Zambian law prohibited the employment of persons under the age of 16. All nationals or residents were required by law to obtain national registration cards on reaching the age of 16. All employees had to be registered with the Zambia National Provident Fund, to which employers made monthly contributions for their employees. In that connection, he pointed out that only persons who possessed national registration cards were eligible for registration with the Fund.

56. Over 60 per cent of the population of Zambia lived in rural areas, chiefly in scattered villages which were not easily accessible by motorized transport. The Government had established the National Housing Authority in order to upgrade housing standards in both the urban and rural areas. The Department of Agriculture provided rural extension services to peasant farmers in order to enable them to produce sufficient food at least for themselves and their families. The Department of Water Affairs had the task of ensuring the general availability of potable water. A number of other ministries and departments were engaged in efforts to improve the living standards of the people and worked in close co-operation with the multilateral agencies of the United Nations system.

57. The Government provided free medical services to all persons, citizens and non-citizens alike. There were Government hospitals in almost all districts and there were rural health centres in areas which were far from the hospitals. All children under the age of five were required to be immunized against diseases which caused infant mortality. Since mining was one of the major industries in Zambia, the Government had established an office to monitor lung ailments among miners and other employees who worked under hazardous conditions. Safety precautions included the provision of hard hats, overalls, gloves and boots to all workers. Most industrial plants and factories had established medical clinics to deal with minor injuries or illnesses. Lastly, he stressed that, although hampered to a great extent by a lack of financial resources and professional expertise, his Government was doing its best to ensure the full implementation of economic, social and cultural rights in Zambia.

58. Mr. TEXIER (France) said that the members of the Working Group might wish to consider the general nature of its task. The Working Group was not a political forum for expressing views on such questions as the International Year of Peace. That should be left to the appropriate political bodies such as the General Assembly, the Economic and Social Council and others. The task of the Working Group was to consider the technical questions in the reports submitted by States parties in accordance with its mandate under the Covenant.

59. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that he recognized the right of Mr. Texier to express his opinion concerning the task of the Working Group. The Soviet expert had the same right and could also express his opinion on statements made by the expert of France which had been directly or indirectly of a political nature.

60. General Assembly resolution 40/3 on the International Year of Peace invited, inter alia, all organizations of the United Nations system to co-operate with the Secretary-General in achieving the objectives of the Year. There was therefore an obligation on the part of all the members of the Working Group in that regard. It could not be said that the task of the Working Group was merely to consider the technical questions in the reports submitted by States parties. The General Assembly, the Economic and Social Council, and the Commission on Human Rights had established links between the problems of peace and the task of ensuring human rights, between the problems of economic development and the implementation of social and economic rights. It could not be said therefore that the Working Group should not consider those questions. To do so reflected a political position which ran counter to the objectives and principles of the Covenant. In the future it would be best to avoid procedural polemics about what constituted technical and political questions. The Working Group should continue to work in a constructive manner in considering the reports of States parties and drafting general recommendations in accordance with its mandate.

61. Mr. TEXIER (France) inquired what article of the Covenant authorized the members of the Working Group to make such statements.

The meeting rose at 1.05 p.m.